

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Norfolk Division

UNITED STATES OF AMERICA

v.

ACTION NO. 4:06cr6

JOHN J. SMALL,

Defendant.

O R D E R

\_\_\_\_\_In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. The Court concludes that the following facts require the detention of the defendant pending trial in this case.

There is probable cause to believe that the defendant has committed an offense under 18 U.S.C. § 924(c).

The defendant has not rebutted the presumption established by the above finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

The Court FINDS that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence that the defendant engaged in the armed robbery of six retail businesses. Several people were shot during these robberies and a total of \$1,595 was taken. A co-defendant, Caleb

J. Carr, was shot during a robbery that Small did not commit. The co-defendant confessed to all of the robberies and admitted that Small and Carr both used firearms during each robbery. Small was arrested with a .380 firearm. The defendant's gun was recovered in his pocket and a ballistic test confirmed that this gun had been used in some of the prior robberies.

The Court FINDS that because of the substantial possible penalties that this defendant faces in this case, and the strength of the evidence against him, that there is a strong likelihood that the defendant will not appear for trial under any conditions of release.

There is a serious risk that the defendant will not appear.

There is a serious risk that the defendant will endanger the safety of another person or the community.

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court

proceeding.

The Clerk shall mail or deliver a copy of this Order to the United States Attorney at Norfolk, to the United States Marshal at Norfolk, to the United States Pretrial Services Office at Norfolk, and to counsel of record for the defendant.

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/s/  
Tommy E. Miller  
UNITED STATES MAGISTRATE JUDGE

Norfolk, Virginia

January 27, 2006